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Letter from the Attorney-General, recommending an appropriation for the transportation of judicial and other officers connected with the administration of justice in the Territory of Alaska between the seat of government there and such places as courts may be held.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 9, 1891.—Presented by Mr. Edmunds, referred to the Committee on Appropriations, to accompany amendment to bill H. R. 13462, and ordered to be printed.

LETTER

FROM

THE ATTORNEY-GENERAL,

RECOMMENDING

An appropriation for the transportation of judicial and other officers connected with the administration of justice in the Territory of Alaska between the seat of Government there and such places as courts may be held.

DEPARTMENT OF JUSTICE,
Washington, D. C., February 7, 1891.

SIR: Inclosed I hand you a copy of a letter just received from Judge Bugbee, of Alaska. The letter speaks for itself. It calls attention to needs in the administration of the laws in that District which seem to require a remedy. It seems to me a feasible suggestion that is made; that is, a law authorizing and requiring the Secretary of the Treasury to furnish to the officials of Alaska a revenue cutter for the transportation of the judicial and other officers from Sitka to Unga, Kodiak, and Oónalaska for the purpose of holding occasional courts there. Without something of this kind it is difficult to see how the laws can be enforced and life and property protected. There ought, I think, also to be some provision for paying the expenses of the judge when out in remote districts holding court. As you will see by this letter, the Comptroller holds that he is not authorized to allow accounts of the judge for expenses except when he is actually traveling. In other words, if he goes to a place and holds court and is under expense there, that he is not entitled to credit for his expenses. This, I think, should be otherwise.

Yours, truly,

W. H. H. MILLER,
Attorney-General.

Hon. GEO. F. EDMUNDS,
Chairman, United States Senate.

SITKA, ALASKA, *January 9, 1891.*

SIR: Referring to your letter of December 3 last (A. G. 11707-1890), briefly acknowledged by me on December 27, in which you request me to consult carefully with the United States attorney and the United States marshal and any other officials who may be at Sitka, and write you my views with reference to the necessities in the way of more or different court facilities in the Territory, notably Unga, Kodiak, and Oonalaska, the reasons why such necessities exist, and what remedy in my judgment would be available to repress crime and preserve order in the Territory, I would say that the whole subject has been on many and various occasions carefully considered and talked over by myself and the officials named by you, as well as the governor, clerk, court interpreter at Sitka, the deputy collector of customs, the United States commissioner and deputy marshal at Oonalaska, Dr. Sheldon Jackson, the commanders of the revenue cutters *Rush* and *Corwin*, and many citizens.

I believe that there is a great and urgent necessity for the holding of a term of court in western Alaska, either at Kodiak, Unga, or Oonalaska.

So strongly have I been impressed with this necessity that had it been in my power to execute it I should long before this, under the authority given the judge by section 3 of the organic act, have made an order directing the holding of a special session at one of the places mentioned. But it was not in my power, nor is it now, under existing circumstances with reference to transportation, which render necessary a voyage by the judge, clerk, marshal, district attorney, and interpreter from here to San Francisco, probable detention there, thence by sea to Oonalaska, long detention at that place, and a return by the same route, involving great expense to the Government, much individual outlay, and inconvenience, not to speak of peril, and prolonged absence from other and more pressing duties in this part of the Territory during the late spring and summer months, which cover the only season when western Alaska is accessible from here and when a jury can be obtained there.

Since the commencement of my term of office in December, 1889, there have been not less than four homicides reported as having occurred in western Alaska, but only one man has thus far been apprehended. He is now in jail here under indictment for murder. The other criminals have not been arrested. Lesser crimes in great numbers have undoubtedly been committed, but they have not been made public. The great expense and difficulty of communication and travel in that neighborhood, the lack of even mail facilities, the cost and labor of procuring and transporting witnesses, their reluctance to come here to testify, the want of proper officers to execute process, the uncertainty of punishment of criminals if arrested and brought so far for trial as Sitka, to which point they must necessarily be brought, all contribute to the failure to bring wrongdoers to justice, and consequently lead to disregard of the law and defiance of the Government. If fear of punishment deters from crime, little need be apprehended by lawless persons in western Alaska. The power and authority of the United States commissioner and deputy marshal at Oonalaska, without means of enforcing the law, stand for very little in that vicinity, except, perhaps, in the eyes of the helpless natives, whose crimes, when not petty and inspired by liquor illegally obtained, arise mostly from blind obedience to tribal laws and customs, which, however reprehensive in a civilized point of view, they have been taught to believe just and binding.

It is my opinion that a term of court at one of the places named and the speedy trial and conviction, if guilty, of such law-breakers as

might be brought to justice, would decrease crime just as surely as neglect to execute the laws would increase it. Lawless men will congregate where they feel the law will not reach them. Such a display of power to right wrongs and punish crimes would be wholesome in its effect not only upon the whites but upon the natives, to the latter of whom it would be a grand object lesson in Governmental supremacy. As it now is their few ideas in that regard have been derived mainly from an occasional visit of a revenue cutter, and they are probably in utter ignorance of the existence of a Territorial government.

Undoubtedly the executive and judicial powers under the organic act are ample for present purposes in western Alaska if means were afforded for their proper exercise, and, under them, life and property can be fully protected as, long ago, the Government promised to protect them.

But laying aside all questions of duty and expediency it would, I think, solely in an economic point of view, be to the advantage of the Government to have a term of court held in western Alaska every year or two; as, occasion might demand; as, for illustration, the defendant now under indictment for murder, of whom I have just spoken, when arraigned, demurred, and his counsel stated that even if he pleaded not guilty he would not be ready for trial before the May, and possibly, the November term, on account of absence of witnesses. The district attorney was in the same situation. All the witnesses reside at the westward and must be brought here at the expense of the Government, via San Francisco, unless the Government sees fit to furnish a vessel for the purpose. The mileage of the witnesses who testified before the grand jury has also to be paid by the Government. I have no doubt that the expenses in this one case will equal the expense of holding a term of court at Ounalaska; and by the holding of such a term in the spring at that place the necessity for bringing such witnesses here will be obviated.

Let me add here the suggestion that a like visitation by the governor, concurrent or otherwise, but perhaps better concurrent, is very desirable, as has been very plainly shown in the results of his frequent intercourse with the natives in the southeastern part of the Territory.

My suggestions are that the Government furnish at an early date a mail steamer for the conveyance of the governor and court officials from Sitka to Ounalaska, stopping at Unga and Kodiak, and giving postal facilities as well, or that it place at the disposal of the governor, marshal, or judge, for the same purpose, a revenue cutter or naval vessel for the period of two months between May 1 and October 1 next.

I wish, however, in this connection, to add certain suggestions, which I shall endeavor to make the subject of a separate letter to yourself and the Secretary of the Treasury by this mail.

Under your rulings contained in letter of May 29, 1890 (H. H. 7724-1889), my claim for the sum of \$55 for board and lodging while holding a term of court at Juneau in January, 1890, which I consider actual and necessary expense while traveling in the discharge of my duty, as provided in the organic act, were disallowed, although similar claims by the marshal and district attorney have been allowed and paid by the Treasury Department. It is fair to assume that a similar claim by me, if a term of court were held at Ounalaska, would also be disallowed, thereby forcing upon me an expenditure greatly beyond that incurred by remaining here and beyond that incurred by the marshal and district attorney.

The Treasury Department has disallowed the payment by the clerk,

under my order, out of the hire and forfeiture fund (the disbursement of which I and my predecessors have always claimed rested with the judge and not the Treasury Department) of the traveling expenses, as well as the board and lodging at Juneau at the same term of the clerk, deputy marshal, and interpreter.

The presence of these officers would be absolutely necessary at any term to be held at Ounalaska or elsewhere.

Whatever willingness I, myself, might have to pay my own expenses while holding such a term, I can not answer for a like disposition on the part of the officers named. Indeed, it would be safe to say that in view of the heavy disbursements they would be called upon to make they would not go there or elsewhere unless *all* their actual and necessary expenses were defrayed by the Government, and I certainly should not feel justified, even at the request of the Department, in ordering a term of court to be held away from the capital.

It follows, therefore, that unless these rulings are revised or other arrangements made at Washington, no term of court can be held in Alaska at any other place than Sitka.

I shall show this letter to Governor Knapp, who will doubtless communicate to you his views upon the subjects of your inquiry.

Respectfully,

JOHN S. BUGBEE,

United States District Judge, District of Alaska.

The ATTORNEY-GENERAL,

Washington, D. C.

I most heartily concur in the foregoing recommendation that a term of court be held at some place in western Alaska. Unless some measures are soon taken to facilitate the administration of the Government and enforce the laws, the lawlessness and crime already too common will be greatly increased. I believe the United States Government is under obligation, in justice to its people, to put western Alaska in close and constant relations with the local government it has established in the Territory. But the holding of a single term of court and an occasional visit by the executive in that section would be of incalculable benefit.

LYMAN E. KNAPP,

Governor of Alaska.